

APPLICANT:
Steven Harris

REQUEST: A variance to permit a shed
within the 100 foot agricultural setback in
the Rural Residential District

HEARING DATE: August 2, 2006

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5546

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Steven Harris

LOCATION: 2409 Feather Mae Court–Fielder Farms, Forest Hill
Tax Map: 33 / Grid: 3E / Parcel: 450 / Lot: 17
Third (3rd) Election District

ZONING: RR / Rural Residential

REQUEST: A variance, pursuant to Section 267-46.1(B)(5)(b) of the Harford County Code, to permit a shed to be located in the 100 foot agricultural setback in the RR District.

TESTIMONY AND EVIDENCE OF RECORD:

Steven Harris, Applicant, is the owner of a 2.6 acre lot located on Feather Mae Court, Forest Hill, Maryland. The property is improved by a two-story, brick, 2,900 square foot single family residence with a screened porch, deck and patio. The parcel is a panhandle lot.

A storage shed has been located on the property for approximately seven years. The shed had been approved by the homeowners association and is aesthetically similar to the main house, according to the Applicant. The shed, in fact, backs up to another shed located on adjoining property. The shed is vinyl sided, 12 feet by 20 feet in size. Mr. Harris uses the shed to store his lawn equipment.

Both the plat of the property (accepted as Applicant's Exhibit 1) and the revised plot plan for Lot 17 (noted as Attachment 2 to the Staff Report) clearly demonstrate, in Mr. Harris' view, the constraints of his property which limit the available area in which a structure of any sort can be erected. The plats show a 100 foot agricultural setback along both the east and south side of the property. In addition, the property is impacted by a non-tidal wetlands area with an accompanying 75 foot natural resources buffer.

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The shed itself is located somewhat to the left of the driveway as one enters the Harris property. This area is in the 100 foot agricultural setback, with the shed being approximately on the lot line. According to both the plat and Attachment 2, only a very small portion of the overall lot is free of any building restriction. That area is located directly behind Mr. Harris' house. Mr. Harris testified that this available area, both topographically and aesthetically, is an inappropriate location for the shed. He accordingly asks for a variance to allow the shed to remain as presently located within the 100 foot agricultural setback.

Next for the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune and the Department are of the opinion that the property is unique. Two sides are encumbered by a 100 foot agricultural setback. To the southwest side, and encumbering a large part of the parcel, is located a natural resources district which also restricts building. As a result of these features only a small triangular portion of the lot, located directly behind the house, is available for improvements. If located in this area, the shed would be directly behind the sliding glass door to the rear of the house. Mr. McClune believes that such a location would be highly intrusive to the occupants of the house and aesthetically unattractive and undesirable. Furthermore, this is not a location typical of sheds in the neighborhood.

Mr. McClune feels that the present location of the shed is appropriate. It is located next to a vegetative buffer area and is close to a shed on an adjoining property. Mr. McClune finds no adverse impact if the variance were approved.

There was no evidence or testimony given in opposition.

APPLICABLE LAW:

Section 267-46.1(B)(5)(b) of the Harford County Code provides:

“(b) A minimum one hundred (100) foot setback shall be established along the entire developed property adjacent to an active farm to protect that farming operation from the residential development. This setback may be reduced to fifty (50) feet from the edge of the developed property boundary if the area within the fifty (50) feet contains existing forest and that forest is retained and designated as an undisturbed forest buffer area, and if necessary, landscaping is provided to screen and protect that development from the adjacent farming operation.”

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Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:

(1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.

(2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.

B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.

C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicant’s property is similar to many newer residences in Harford County. It consists of an attractive two story home, on a 2.6 acre lot, zoned Rural Residential. What is unusual, however, about the Applicant’s lot is that it is highly restricted by 100 foot agricultural setbacks along two of its borders, and a non-tidal wetlands and natural resources buffer along the middle and west side of the property. These features, combined with the building pad for the house itself, and with the septic reserve area in the front of the house conspire to create very little actual remaining space available for any additional improvements on the property.

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In fact, the Applicant only desires to secure permission to continue to maintain an attractive 12 foot by 20 foot shed which, after review of the photos in the file, is clearly similar to if not more attractive than many other typical storage sheds within the area and the county.

The Applicant states that the only other location for such a shed which would not violate the applicable setbacks or natural resources area is directly behind the house. He believes, and is supported by the Department of Planning and Zoning, that such a location is inappropriate as it would be directly behind the sliding glass doors which open up off the living space of the home. One would be sitting in the home, presumably the living or dining room, and looking directly out into the shed which, at that location, would be only a few feet behind the house.

It is accordingly found that the subject property exhibits unique features which, in combination, prohibit the Applicant from enjoying an amenity owned and possessed by others throughout Harford County. The difficulty exhibited by the property owner can be alleviated by the granting of the variance requested. There will be no adverse impact on any adjoining property owner and, in fact, it is found that there will be no impact whatsoever to any adjoining property owner.

CONCLUSION:

It is accordingly recommended that the requested variance be granted, subject to the Applicant obtaining all necessary permits for the shed.

Date: September 12, 2006

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on OCTOBER 10, 2006.